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Letter dated 8 July 2003 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my letter of 9 April 2003 (S/2003/425).

The Counter-Terrorism Committee has received the attached supplementary report from Rwanda, submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I would be grateful if you could arrange for this letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Inocencio F. **Arias**
Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

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Annex

Letter dated 3 July 2003 from the Permanent Representative of Rwanda to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

[Original: French]

I have the honour to transmit herewith the document containing the response of the Government of Rwanda to the comments and questions of the Counter-Terrorism Committee on the initial report submitted by Rwanda pursuant to paragraph 6 of Security Council resolution 1373 (2001) (see enclosure).

(*Signed*) Stanislas **Kamanzi**
Ambassador
Permanent Representative

Enclosure

Supplementary report by Rwanda to the Counter-Terrorism Committee pursuant to Security Council resolution 1373 (2001)

[Original: English and French]

Sub-paragraph 1 (a) and (b):

- In Rwanda a number of existing laws contain various provisions that allow for the prevention of financing of terrorism. In particular:

  I. The 3rd March 2003 regulation governing currency exchange that enforces law no 11/97 of 26/7/1997 on the statute of the National Bank confers the latter the authority to introduce rules and conditions governing the organisation and the functioning of exchange markets as well as the condition under which such operations are effected. The law requires, among other things:

  - To obtain authorisation from BNR to effect exchange operations;
  - Fulfilling certain BNR conditions for all imports and exports in foreign exchange operations;
  - Opening up foreign exchange account out side the country requires fulfilling some conditions;
  - Commercial banks that engage in such operations are under obligation to submit a report to BNR.

  II. The Law of 11th November 1964 on collections imposes on the authority that authorises such collection an obligation to ensure that the receiving of funds and other items handled during the collection is done as per the authorisation and to request the organisers or their successors to show similar accounts and the proof of the funds' destination as stipulated in article 8.

  That right can be exercised for a period of one year and the expiry date shall therefore depend on the duration of the collection.

  III. To sustain those measures, BNR introduced an extensive programme of training in computer applications for the staff members in order to counter possible cyber crimes.

  IV. In its articles 8 and 39, the law no 20/2000 of 26/07/2000 on non-profitable associations, orders any such association to present its plan of action, source of finance and a copy of its annual report of activities that is made to a relevant ministry.

  V. The draft law relating to prevention and repression of corruption and other related offences suppresses money laundering and illegal amassing of wealth.

- The author of a crime connected with or in relation to a terrorist organization is liable on conviction to punishment as an accomplice as long as such act falls within the criminal acts envisaged under article 91 of the Penal Code. Thus, according to that article the following are considered as accomplices:

i. Those who, by way of gifts, promises, threats, abuse of authority or power, machination or any other tricks, will have directly provoked such act or will have given instructions to commit such act;

ii. Those who will have knowingly supplied arms, weapons or any other means that may have facilitated the crime;

iii. Those who, knowingly, will have assisted an author or authors of a crime in acts that prepared or facilitated or in those that he will have accomplished;

iv Those who, either by way of speeches, shouts or threats uttered in public places or public meetings; or by way of writings and printed material sold or distributed, either sold or exhibited in public places or meetings; or by way of banners or adverts displayed before the public; will have directly incited the author or authors into committing such crime; without prejudice to penalties provided for the authors of incitement even in the case where such incitement would not be liable to charges;

v. Those who will have harboured or assisted the culprits within conditions provided in article 257 of the Penal Code.

Sub-paragraph 1 (c):

- The law of 23/02/1963 establishing the Code of Criminal Procedure in its article 3, subparagraph 1, authorises Judicial Police Officers to seize all objects where the law provides for confiscation, conviction or discharge. Funds found in the hands of terrorists are also dealt with according to the above article.

Also for the following reasons, such funds are liable to seizure:

i. Article 281 considers as a criminal organisation any association whatever the number of its members or its duration when formed with an intent against persons or property. Funds belonging to such an organisation are consequently liable to seizure since they are considered as property owned by a criminal organisation.

ii. When funds in the hands of terrorist group were used in committing a crime in a foreign country, they can be seized on the basis of article 3 of the Penal Code since according to article 7 of the Penal Code "is considered committed in Rwanda any crime whose one of its constitutive elements was committed on the territory of Rwanda."

- The Law relating to prevention and repression of corruption and other related crimes has already been adopted by the Transitional National Assembly. Its transmission to the Constitutional Court has only been delayed by the adoption of the new Constitution. The Counter Terrorism Committee will get a copy of this law soon after its publication in the official Gazette.

  The above mentioned law punishes not only money laundering, but also the illegal amassing of wealth but no provision is made for the seizure of funds obtained legally. However, such legally obtained funds could be seized in cases where there are serious reasons to believe that the funds will be used in the commission of a crime.

- Article 16, subparagraph 2 of Law no 08/99 imposes on banking institutions an obligation to report all the information regarding funds having possible link with criminal activities. Such obligation does not affect professionals such as accountants or lawyers.

  In the case of lawyers, article 67 of the law no 03/97 of 19/3/1997 on the creation of the Bar in Rwanda imposes an obligation of secrecy. However, according to article 65, such secret can only be divulged in cases where the president of the Bar Association judges the motive to be justified. Such secret can otherwise be divulged in cases where it is requested by the relevant law and order authorities acting within the exercise of their mission in the strict interest of this law (article 68 of the above mentioned law).

  It is to be noted that once such professionals are made accomplices to the criminal acts of the clients, they shall be held criminally liable.

- When financial institutions are in possession of lists of people suspected to be carrying out terrorist activities, despite the obligation to give information concerning funds linked to illegal activities of such people, they must according to article 16 of Law no 08/99 of 18/6/1999 refuse the transfer or the management of such funds.

Sub-paragraph 1 (d):

- Refer to response to this question in sub-paragraph 1 (a) and (b).

Sub-paragraph 2 (a):

- The Law Reform Commission is busy working on the draft of the Law modifying and completing the Rwandan penal code. A copy of that law will be availed to the CTC soon after its publication in the official gazette.

- The crimes mentioned in the Penal Code, sub-paragraph 1 (a) of the first report are those undermining the interest of Rwanda and its people. A number of provisions in the Penal Code also criminalize some actions that affect the interest of other states and their citizens. In this regard, refer to response made in sub-paragraph 2 (c) and (d) in its last point.

  In any case, Rwanda notes very well the observations made by the CTC. These observations will be taken into consideration by the Law Reform Commission.

- To ensure that recruitment, fund raising and request for any assistance are not carried out by individuals or entities for terrorist ends, the following legal and practical measures have been taken:

  - Article 155 of the Penal Code punishes all persons who will have established or maintained criminal relations with a foreign government or institution or their agents;

  - Article 163 of the Penal Code punishes whoever by means of gifts, payments, promises, threats, abuse of authority or power will have recruited people or facilitated or accepted engagement with persons for the benefit of an armed force other than the States' regular armies;

In its sub-paragraph 2, the article punishes whoever will accept to be hired or recruited in the service of an armed force other than the states' regular armies;

- Articles 170 and 171 of the Penal Code, punish whoever will head a hostile group against the interest of the State;
- Article 173 punishes as accomplices those who will have provided to such groupings, accommodation, hide-outs, meeting places or any other emergency assistance;

Among the practical measures taken, one can be mentioned:

- The National Police supervises all phases of recruitment and training of personnel in private security firms; it also determines and controls arms they posses.

- In the field of combating the illicit traffic in firearms, in order to prevent firearms from falling into the hands of terrorists, Rwanda in the past year took the following measures:

  - Rwanda signed the Nairobi Declaration of 15 March 2000 on Small Arms and Light Weapons.
  - In the framework of the Eastern Africa Police Chiefs Cooperation Organization (EAPCCO), Rwanda adopted the Protocol.
  - Rwanda launched her National Focal Point on Small Arms and Light Weapons on 20 March 2003.
  - The Rwandan civil society established SAFERRWANDA, a non-governmental organization committed to issues of the proliferation of illicit small arms and light weapons.

Sub-paragraph 2 (c) and (d):

- Article 13 of law no 17/99 of 16th August 1999, on Immigration and Emigration is not applicable to asylum seekers. The latter are governed by the law no 34/2001 of 5th/7/2001 on refugees.

  Asylum seekers as well as other people mentioned in sub-paragraph 2 of the resolution cannot be granted refugee status, since, according to article 2 of the law no 34/2001 of 5th/7/2001 on refugees, "*Any person subjected to accusations of having committed actions contrary to the objectives and principles of the United Nations and the Organisation of African Union cannot be considered as a refugee*".

  Any person having obtained his/her refugee status or temporarily authorised to stay in Rwanda, loses his/her residence right, once he/she involves in other professional activities rather than those authorised in his/her residence permit. According to the Penal Code, once proven that the asylum seeker or any person applying for residence visa is part of persons mentioned in sub-paragraph 2 of the resolution, he/she will be taken as the author, co-author or an accomplice of the offence.

- In respecting the principle of non-utilisation of the Rwandan territory as a base for terrorist and criminal groups, the creation, the organisation, the enticement

and the leading of groups of bandits are recognized as offences (articles 170-173, 281 and 283 of the Penal Code).

The Rwandan territory cannot be used illegally to carry out criminal acts against another state. Article 7 of the Penal Code punishes any offence committed outside Rwanda when one of its constitutive elements was committed on the territory of Rwanda.

In addition, article 12 of the Penal Code, punishes whoever while on the Rwandan territory turned an accomplice to a crime or offence committed on foreign land, if such act is a crime under both Rwandan law and the law of that foreign state, provided that such a crime or offence has been ascertained by a definite decision of the foreign jurisdiction.

Article 191 of the new Constitution prohibits the signing of any convention or international treaty authorising the establishment of foreign forces on the Rwandan territory.

Sub-paragraph 2 (e):

- International terrorism in its modern dimension has surpassed by far the vision the legislator had when he defined the crime especially concerning its preparatory acts. Nevertheless, the legislator intends to consider this aspect in the on going legal reforms. It is for this reason that money laundering will be established as an offence.

- Concerning the plan to give the Rwandan courts the universal jurisdiction, this has been forwarded to the inter-ministerial technical committee for scrutiny before being submitted to cabinet.

  In the absence of the universal jurisdiction, Rwandan courts are competent:

  - To prosecute any Rwandan citizen who, while outside the Rwandan territory, is found guilty of an act proven as a crime and punishable by the Rwandan law (article 9 of the penal code).
  - To prosecute any Rwandan citizen who, while outside Rwanda territory is found guilty of an act proven as an offence under the Rwandan law, and if such act is punishable by the laws of the country where the offence has been committed (article 10 of the penal code).
  - To prosecute anyone found on Rwandan territory who is found guilty of a crime or offence committed in a foreign country provided that such crime or offence has been ascertained by a final decision of the foreign court (article 12 of the penal code).
  - To prosecute any Rwandan citizen or foreigner who while outside the Rwandan territory is found guilty of a crime or offence interfering with the state's security or the counterfeiting of national currency as if the crime or offence had been committed on the national territory (article 13 of the Penal Code).

Sub-paragraph 2 (f):

- In matters of mutual assistance and cooperation in the fight against crime, Rwanda signed a treaty to that effect with Eastern Africa Police Chiefs

Cooperation Organization (EAPCCO) member states. Other treaties are to be signed during the next EAPCCO Ministerial Conference.

These cases are notably:

- The treaty relating to the fight against drugs and other narcotics;
- The treaty between member countries of the organisation in the fight against terrorism;
- The treaty relating to the exchange and extradition of suspects and charged persons;

It is to be noted that Rwanda intends to broaden its cooperation with other countries in the above mentioned fields.

In the field of extradition, Rwanda has signed the following treaties and conventions:

- Judicial Convention in matters relating to extradition and the Protocol relating to criminal rogatory commissions, signed in Kampala on 6th February 1988;
- Extradition treaty, treaty on mutual cooperation in criminal matters, and the treaty on the reciprocal execution of judicial decisions, signed in Nairobi on 28th May 1990;
- Extradition treaty with Tanzania, signed in 1965;
- Extradition treaty with Burundi and Zaïre (DRC), ratified on 21st June 1975;

Extradition treaties signed before independence include with: Bolivia, Bulgaria, Chile, Colombia, Costa Rica, Denmark, Cuba, Guinea, Finland, Greece, Guatemala, Honduras, Italy, Nicaragua, Holland, Salvador, Switzerland and Britain.

- In our laws, there is no provision for a definite time frame within which to respond to a judicial assistance requested by another country. However, the response to a request depends on the urgency and gravity of the issue, and material as well as logistical means available. In practice, the response required is provided in the shortest possible time.

Sub-paragraph 2 (g):

- The fight against trafficking of drugs and other narcotic substances and the fight against financial and economic crimes, are under the competence of the Judicial Police Directorate of the National Police. The control of border posts is done by personnel of the Directorate of Immigration and Emigration that is part of the National Security Service. While these various services work under different institutions, there is among them cooperation on the ground which is reflected in regular exchange of information, meetings and regular reports. This cooperation is manifested in the fact that anyone suspected by the Immigration officer while checking the travel documents is handed over to the police for investigation.
- To avoid any counterfeiting, forgery, fraudulent use of travel documents and identity cards, the following measures are taken:

- Organize Seminars and training for personnel of the Immigration and Emigration department;
- Since 24th June 1996, there is new brand of passports and other travel documents having a number of improved security features such as the quality of the paper, water mark and indelible ink;
- The use of digital visas;
- The use of modern equipment to check travel documents.

Sub-paragraph 3 (a):

- There is in Rwanda and in other neighbouring countries, namely Burundi, Uganda, Tanzania and Kenya, mechanisms of permanent consultations that allow those countries to discuss and exchange information related to issues raised by the movement of people and goods. With Kenya in particular, the following fields of cooperation have been defined:
  - To hold regular contacts between leaders of Immigration and emigration departments of the two countries;
  - Harmonization of procedures;
  - Joint training in the field of border control, of laws, exchange of information, detection of forged documents;
  - To maximise the exchange of information to fight terrorism, drug trafficking and human trafficking.

Under the framework of the Eastern Africa Police Chiefs Cooperation Organization (EAPCCO), there are permanent contacts between Rwanda, Burundi, Djibouti, Eritrea, Ethiopia, Kenya, Seychelles, Sudan, Tanzania and Uganda.

The 20th August 2003 Constitution of EAPCCO provides in its article 3 some of the following objectives:

- To harmonise, promote, strengthen and establish permanent cooperation and common strategies to fight against cross-border crimes and their regional impact;
- To prepare and distribute all information related to criminal activities; and to ensure necessary mutual assistance for the control of crime in the region;
- To assess the needs for training of police officers in specialised fields such as the fight against drug trafficking, motor vehicle theft, theft in works of art, financial and economic crimes, illegal trafficking of firearms, serious crimes such as terrorism, armed robbery as well as other fields that may be identified by member-states;
- To harmonise laws of member states with regard to extradition, mutual assistance and to make necessary recommendations to member states in the mentioned fields and in others that affect the efficient implementation of laws.

Sub-paragraph 3 (b):

- The legal basis of extradition is the Decree of 12th April 1986 as modified and completed to this date by the Penal Code in its articles 15 and 16. This Decree provides in its article 1 that the government will deliver to governments of foreign countries, in the context of reciprocity, any foreigner accused, prosecuted or condemned by courts of law of the said countries as the author or accomplice in one of the acts committed in the territory and mentioned in the extradition convention concluded amongst them.

  In the absence of any extradition convention, or in case of an act not provided for in the extradition convention, the foreigner will be handed over only on the basis of specific agreement signed between the two governments.

Subparagraph 3 (c) and (d):

- It should be noted that Rwanda has ratified most of the international conventions relating to terrorism, as mentioned in the first report Rwanda submitted to the UNSC CTC.

  Currently, Rwanda is working with the rest of the international community in elaborating new conventions. In particular, Rwanda is participating in the task of designing the UN Convention on corruption.

  In the framework of the on going law reform, the content of those conventions will be taken into account.

  The draft of the Counter Terrorism Act currently under preparation is inspired by those conventions.

Sub-paragraph 3 (e):

The incorporation of international conventions into our domestic law will lead to the modification of the criminal laws currently in force by inserting new offences and setting the corresponding penalties. For the existing offences, penalties will be increased to match the gravity of the offences.

- The Penal Code, in its article 15 paragraph 2, provides that extradition is applicable only if the alleged facts are offences under the law of both Rwanda and the requesting country. Extradition will not be granted for political offences or if it is required for political motives. However, when the person under an extradition request is pursued for terrorism charges he/she will be extradited because terrorism is not considered as a political offence.

Sub-paragraph 3 (f):

- There are no crimes mentioned in article 2 of the law no 17/1999 on Immigration and Emigration.

  The crimes whose identification is required are rather provided by law no 34/2001 of 5th July 2003 on refugees. In its article 2, persons pursued for the following acts are not considered refugees:

  - A crime against humanity;

- Acts contrary to the aims and principles of the United Nations and those of the Organisation for African Unity, crimes provided under the Rwanda draft bill on the crime of genocide, crimes against humanity and war crimes. We should mention that this draft bill is tabled at the Transitional National Assembly.

Sub-paragraph (g):

- See the response to this question in sub-paragraph 3 (e).

Paragraph 4:

- As mentioned in Rwanda's first report addressed to the UNSC CTC, particular attention has been given to the fight against the trafficking of drugs and other narcotic substances. The same attention has also been given to the fight against other crimes mentioned in paragraph 4 of the resolution. This has been manifested in the various actions that have been undertaken. Here one can mention the following:

  - Money laundering is seen as an offence severely punishable in the bill related to the prevention and suppression of corruption and related offences. When this offence is committed in a permanent manner or in violating the professional prerogatives, the provided penalties are doubled. This is the same case when it has been committed by an organised group.

  - In the same vein, at the level of the Judicial Police, a division in charge of economic and financial crimes was created. On the initiative of this division and in cooperation with the National Bank of Rwanda there was created a Committee for cooperation between Law enforcement and Banking/Financial institutions (COCLAB). The committee brings together officers from the national Police, The Central Bank and the Prosecution Department.

  - Rwanda became a member of the Eastern and Southern Africa Anti Money Laundering Group (ESAAMLG).

  - Rwanda became a member of Interpol's African Working Party on Information Technology Crimes.

  - In the field of combating the illicit trafficking of small arms and light weapons, the measures taken are enumerated under sub-paragraph 2 (a) in the fourth point.

  - As mentioned in the first report, on the 14th April 2002, Rwanda ratified the convention on the physical protection against nuclear materials.

  - Rwanda has a liaison officer at the sub-regional office of Interpol in Nairobi, Kenya. This officer heads firearms desk.

  - The new constitution promulgated on the 04th June 2003, in its article 191 paragraph 2 forbids any international convention or agreement authorising transit or storage of toxic waste or any other product that could have a harmful impact on the environment and on the health of the population.

- Rwanda acceded, by Presidential Order No. 78/01 of 8 July 2002, to the Stockholm convention on Organic pollutants.

Miscellaneous:

- The structures of the National Police, of Rwanda Revenue Authority, of the National Bank of Rwanda and of the Immigration and Emigration Department provide services whose activities enable the implementation of the Resolution.

In the structure of the National Police, the following services are provided:

- Division of financial and economic crimes in the Judicial Police in charge of the fight against money laundering.
- Division of Narcotics in the Judicial Police in charge of the fight against drug trafficking.
- Interpol Division of the Judicial Police in charge of cooperation and exchange of information criminal matters.
- Specialised units attached to the National police in charge of border control.

In the structure of Rwanda Revenue Authority, the following services are provided:

- Department of Revenue Protection in charge of the fight against smuggling and any tax avoidance.
- Division of Compliance in charge of revenue matters.

In the department of Immigration and Emigration, the following services are provided:

- Division of inspection in charge of controlling travel documents to prevent frauds and falsifications.

Assistance:

- Apart from the technical assistance required in the field mentioned in the first report, Rwanda would like to obtain any other support or necessary assistance in order to put in place special units to fight terrorism and its logistical/financial support networks.